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TESTIMONY OF THE CONNECTICUT JUVENILE JUSTICE ALLIANCE
TO THE JUDICIARY COMMITTEE
IN FAVOR OF HB 7389 AN ACT CONCERNING CONFIDENTIALITY IN THE CASE OF A
DISCRETIONARY TRANSFER OF A JUVENILE'S CASE TO THE REGULAR CRIMINAL
DOCKET AND IMPLEMENTING THE RECOMMENDATIONS OF THE JUVENILE
JUSTICE POLICY AND OVERSIGHT COMMITTEE
MARCH 25, 2019

Good afternoon Senator Winfield, Representative Stafstrom, and members of the Judiciary Committee. My name is Abby Anderson; I am the executive director of the Connecticut Juvenile Justice Alliance. The Alliance is a statewide public policy and advocacy organization dedicated to ending the criminalization of Connecticut's children. We believe in prevention to keep children from entering the system, and best practice and policy to help kids who do enter the system to be successful.

We are here to testify in favor of HB 7389. The bill as a whole includes several important reform elements. We support the technical changes required in this bill and discussed at length by my colleagues from other organizations and the Tow Youth Justice Institute. I will focus my remarks on removing children under from adult jail and prison, and addressing grave concerns about conditions of their incarceration until they can be held in juvenile facilities. This is important because having children incarcerated in adult facilities has been called a counter-productive crime control strategy by the Center for Disease Control and harms the well-being of youth. Connecticut's analysis of its own data shows this decision point, of transferring youth to the adult system, is racially unjust as black youth are more likely to be transferred to the adult system because of their race. Many other states have already moved to ensure all youth under 18, even when their cases are heard in adult court, are housed within the juvenile system until at least their 18th birthday. Connecticut needs to move quickly to get in line with national best practice and to immediately address conditions of confinement which currently have our state treating children in ways that are out of compliance with, if not the letter, definitely the spirit of state and federal laws around solitary confinement and access to education.

Why shouldn't youth be in the adult court?

Public Safety

Transferring youth to adult court does not reduce violence or enhance public safety. In 2007, the Centers for Disease Control and Prevention published the findings of the Task Force on Community Preventive Services which said:

Available evidence indicates that transfer to the adult criminal justice system typically increases rather than decreases rates of violence among transferred youth. Available evidence was insufficient to determine the effect of transfer laws and policies on levels of violent crime in the overall juvenile population. On the basis of these findings, the Task Force recommends against laws or policies facilitating the transfer of juveniles to the adult criminal justice system for the purpose of reducing violence.¹

¹ Centers for Disease Control and Prevention. Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: Report on Recommendations of the Task Force on Community Preventive Services, (2007). Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/tr5609a1.htm>
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Racial Justice

Black youth more likely to be transferred to the adult court than their white peers

In Connecticut, if a youth is between 15-17 years-old and charged with certain Class B felonies, the prosecutor can ask for a hearing in front of a judge to transfer the case to the adult system. A 2017 report on Connecticut data found that, in these cases, black youth were much more likely to be transferred to adult court than their white peers. The study looked at other factors like age, previous record, charge, socioeconomic status, etc. to see if they explained the different outcomes, but found that race was the deciding factor.²

This study tells us that, if anything, the restrictions on when a youth can be transferred to the adult system should be strengthened, not weakened, as the current system is not fair or equitable.

Adult court and facilities are not set up for youth

The adult court is not appropriate for youth under 18. The facilities, services, and staff are not created for or trained to be effective for youth. Without access to rehabilitative services and after exposure to de-facto solitary confinement, youth held in adult facilities re-enter their communities with significant barriers to emotional, educational, or vocational success.

Federal law

Under the 2018 reauthorization of the federal Juvenile Justice Delinquency and Prevention Act, youth held in adult jails – including those charged as adults – must be removed to juvenile detention centers by December 21, 2021³

Where would the youth currently incarcerated at Manson Youth Institute and York Correctional Institute go instead?

The Juvenile Justice Policy and Oversight Committee has recommended that all youth be out of adult facilities by January 1, 2021 and that the group complete an implementation plan for how to achieve that goal by January 1, 2020. This allows key stakeholders to research best practices from other states, conceive a plan, and have a full year to implement this plan. Connecticut is behind the national trend and norm in this instance so can draw on the experience, lessons and implementation models from several other states and jurisdictions.

How many youth are we talking about?

On any given day there are about 50 boys under the age of 18 in MYI: 25 being held pre-trial and 25 being held post-conviction. The number of girls in York is very small, rarely going above 3 on any given day. (While conditions faced by girls in York are better than those for boys in MYI,

² Spectrum Associates Market Research. (October 30, 2017). An Assessment of Disproportionate Minority Contact in Connecticut's Juvenile Justice System: An Abbreviated Report. Connecticut Office of Policy and Management.

³ Campaign of the National Juvenile Justice & Delinquency Prevention Coalition Juvenile Justice and Delinquency Prevention Act (JJDP) Fact Sheet Series Core Protections: Jail Removal/Sight and Sound Separation http://www.act4jj.org/sites/default/files/resource-files/Jail%20Removal%20and%20Sight%20and%20Sound%20Separation%20Fact%20Sheet_0.pdf

federal law requires youth under 18 to be separated from adults even when they are in the same facility. As a result, girls in York can be alone for a majority of their confinement.)

What do we do for the children in these adult facilities, run by the Department of Corrections, between now and July 2021?

The Office of the Child Advocate released a report in January 2019 raising significant concerns about the conditions of confinement faced by youth under 18 who are incarcerated at MYI. The report highlights many areas of concern including the use of chemical agents (pepper spray) on youth, the frequent use of “administrative segregation,” which leads to youth spending up to 23 and a half hours a day in their cell, lack of access to education, lack of access to mental health services, and inadequate policies and procedures to prevent self-harming and suicidal behaviors.

In light of these findings, it is imperative that DOC immediately improve conditions of confinement through policy and practice including:

1. End the use of solitary confinement - no matter what it is called. Limit the time youth can be confined in their cell as a behavioral intervention.
2. Ban the use of chemical restraints.
3. Address the educational and mental health needs of youth, currently being ignored, downplayed, or denied.

Sections 6 through 9 outline statutory changes related to these elements. We strongly support all of these policy, implementation, and reporting recommendations. We would urge legislators to consider ensuring that language, currently somewhat vague, fully ends the practice of using chemical restraints and solitary confinement as behavioral interventions. Many other jurisdictions have already ended these practices and can provide information about how they have trained staff to ensure youth and staff safety in more humane and effective ways.

While it is important to immediately address the crisis around conditions of confinement, we can not stress enough that addressing these conditions is not an end, but simply a harm-reduction strategy while the state works for the actual goal of ensuring children under 18 are never incarcerated in adult Department of Corrections facilities.

The last section of the bill looks at the dates for removing Family with Service Needs (FWSN) from the jurisdiction of the juvenile court. FWSN cases represent behaviors that are not criminal, but that that we want to interrupt. Over a decade ago, Connecticut stopped detaining youth for FWSN cases. Once the state determined that confinement should never be an option in these cases, the next logical step was to determine that those cases are more appropriately address outside the courts entirely, through communities or the Department of Children and Families. The state removed truancy and defiance of school rules from the courts over a year ago. The rest of the status offenses were due to be removed soon. The bill before you looks to delay those changes, not because of philosophical concerns, but because while the JJPOC recommendation was for less court involvement, more services in the community, instead the legislature provided less services in the community. When FWSN was going to be removed from the courts, CSSD cut just over \$3 million in contracts to serve FWSN youth and families. Those dollars were never reallocated to another state agency. The Alliance wants youth and families to get what they need. In an ideal world, this legislature would appropriate funds to ensure communities can provide the contracted services the courts did and do and then ignore this section of the bill as the delay would be unnecessary.

Investing in youth and communities is what our Justice Advisors, 18- to 25-year-old leaders with first or second hand system experience, have told us will “fix” our justice system. It also aligns with Connecticut voters. Last month, Youth First, a national advocacy organization, commissioned a poll which was conducted by GBA Strategies. The survey of 500 Connecticut adults found that 81% of respondents support increased spending on youth rehabilitation. Those polled cut across partisan affiliations, with a majority of Democrats, Independents, and Republicans alike supporting these and other reform proposals.

Thank you for the opportunity to submit this testimony.

Abby Anderson

Alliance member organizations:

AFCAMP, Alliance for Children’s Mental Health, Center for Children’s Advocacy, CHDI, Connecticut Legal Services, Connecticut Voices for Children, Connecticut Youth Services Association, Community Partners in Action, FAVOR, LifeBridge, NAMI Connecticut, Office of the Chief Public Defender, Office of the Child Advocate, RYASAP, The Village for Families and Children